



INDUSTRIAL PRETREATMENT PROGRAM

STANDARD OPERATING PROCEDURES

AND ENFORCEMENT RESPONSE PLAN

MANUAL

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Herein lie the procedures, which will be followed by the City of Bryan and the Industrial Pretreatment staff, in the execution of the Industrial Pretreatment Program (IPP). The IPP staff has primary responsibility to serve in the role of the Control Authority for the City of Bryan. The overall objective of the Pretreatment Program is to bring, and keep, industries in compliance with applicable federal, state, and local wastewater discharge standards.

SECTION 1 INDUSTRIAL PRETREATMENT PROGRAM PERSONNEL

The specific personnel responsible for administering the City of Bryan's Industrial Pretreatment Program are as follows:

- A. Pretreatment Coordinator (PC)* - Responsible for screening of data, performing compliance sampling and inspections, maintenance of Industrial User files, and evaluating compliance status. This individual is authorized to conduct telephone calls regarding questionable activity, to serve informal verbal warnings, to prepare and serve Notices of Violation, Administrative Orders, and Administrative Fines. This individual is also responsible for publishing the annual list of significant violators. The Pretreatment Coordinator is the primary contact within the Control Authority concerning program policy and regulatory procedures.
- B. Division Manager (DM)* - Division Manager of Environmental Services. Responsible for the City of Bryan's compliance with NPDES and/or TPDES permits, including employee safety, protection of the collection system and treatment plants, effluent quality, and sludge use and disposal. This individual possesses authority to issue Notices of Violation, Administrative Orders, Administrative Fines, Show Cause Orders, order and conduct Show Cause hearings, termination of services, and initiate judicial proceedings.
- C. Deputy City Manager (DCM)* - Possesses overall responsibility for the administration of pretreatment Enforcement Response actions herein described or implied.
- D. City Attorney (CA)* - Responsible for interpretation of the City's Code of Ordinances and the Enforcement Response Plan.

SECTION 2 IDENTIFYING INDUSTRIAL USERS

The ongoing challenge facing the Pretreatment Program staff is to keep up with changes in the business community that have the potential to impact the wastewater collection and treatment system. These changes could come in the form of new businesses within the City or existing industrial users changing their process, pollutant loading, or flows. Rather than simply relying on the results of new surveys done every few years to identify these changes, it is much more efficient to stay abreast of them on a continuous basis.

A. Identifying New Users

To help prevent new users from going unidentified, it is important to use several different means to identify them. The City of Bryan's Industrial Pretreatment Program features several mechanisms to identify and control potential industrial wastewater dischargers. These source control identification mechanisms include the following programs:

- ◆ Utilities Department Screening of New Customers;
- ◆ Survey;
- ◆ Field Investigation and Inspection;
- ◆ Site Development Review Committee.

Each of these ongoing modes of identification allow the Pretreatment Staff to continuously and effectively monitor and control discharge into the wastewater collection system. It allows the Pretreatment Staff to impose appropriate pretreatment measures, as necessary, to protect against excursions of effluent discharges to the receiving waters of the United States.

The initial phase of the source identification program is coordinated through the City of Bryan's Utilities Department by screening new customers for industrial wastewater discharge potential. When a non-residential customer applies for utility service, the customer is given a Commercial Account Information Card (see Attachment B) to fill out. This card requests the official business name, contact person, address, phone number, and the proposed activities of the facility. The form also is designed to identify on-site storage of hazardous or toxic materials to be used or generated by the applicant. The Utilities Department then forwards completed cards to the City's Industrial Pretreatment Coordinator.

Commercial Account Information Cards received by the Industrial Pretreatment office are reviewed by the Pretreatment Coordinator and judged as to whether the non-residential customer might be a candidate for a Wastewater Discharge Permit. If more information is needed to make this determination, the Pretreatment Coordinator will have the option to contact the commercial account contact person to gather additional information. A Survey Form (see Attachment C) may be used for this purpose. If an industry is deemed to be an appropriate candidate, a 'Wastewater Discharge Survey and Permit Application' along with instructions (see Attachment F) is mailed with a transmittal letter (Attachment D) requesting that the form be completed and returned within 60 days. If no response is received, the Pretreatment Coordinator will follow-up with a second request (see Attachment E) with a 30-day response time. If there is still no response, the Pretreatment Coordinator will conduct a field visit, using the 'Industrial Pretreatment Field Investigation & Inspection Report' (see Attachment J) to document data.

All Industrial Users that have been classified as Significant Industrial Users (SIU) shall be notified of their program status in writing. A SIU is an Industrial User who is either:

- ◆ a Categorical Industrial User (CIU);
- ◆ a user who discharges an average of 25,000 gallons per day or more of process wastewater to the POTW;
- ◆ contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW; or
- ◆ designated a SIU by the Pretreatment Coordinator on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW operation, or for violating a pretreatment standard or requirement.

Any Industrial User who is classified as a CIU will be required to submit a Baseline Monitoring Report in accordance with the Industrial Pretreatment Ordinance. The Pretreatment Coordinator will use the information gathered as part of this overall identification process to annually update the Industrial User inventory.

Another means of identifying potential Users is the Site Development Review Committee. This is a multi-departmental review process that is administered through the Planning Services Department. The committee evaluates the designs of proposed site development and major modifications of existing developments. The Environmental Services Division of the Department of Public Works has a seat on the committee and will evaluate the potential need for participation in the Industrial Pretreatment Program. Identified applicants are requested to complete the 'Wastewater Discharge Survey and Permit Application.'

B. Updating Industrial User Data Base

In addition to identifying new industrial users, there must be a mechanism for assessing which current users are affected by changes in the pretreatment program, either through changes to the rules and regulations promulgated by federal or state authorities or through changes enacted by the City itself. As these changes occur, the Pretreatment Coordinator will review and identify those industries that have the potential to become an SIU and/or a categorical user under the changes, or are otherwise affected by them. The Survey Form (Attachment C) may be used to gather pertinent data. These users will then be notified of the new regulations and impacts on their operations.

The Industrial Pretreatment Staff will periodically review all Industrial User data and conduct surveys, on an as needed basis, to update information and re-evaluate user classification. Again, the survey form is a useful way of documenting contact and any applicable changes. Any pertinent updates will be reflected in the annual report to EPA.

C. Multi-jurisdictional Users

All IUs permitted through the City's Industrial Pretreatment Program are within the city limits and therefore, fall under the jurisdiction of the City Codes. Those IUs which are outside the city limits, but use City services (i.e., are connected to the sanitary sewer system) will enter into a contract with the City which stipulates the IU will comply with the City's Rules and Regulations and all provisions of the Industrial Pretreatment Program. This will give the City the jurisdiction to enforce these rules and regulations. As of this date there are no IUs that fall into this category. These multi-jurisdictional users will be identified by the means established for identifying those users that are within the city limits.

Once the IU submits an adequate application, the Pretreatment Coordinator will conduct a site visit to finalize information required for the permit. After the site visit the Pretreatment Coordinator will draft a permit and forward it to the IU. The Pretreatment Coordinator will consider any comments received from the IU applying for the permit and revise the permit, as necessary, before issuing it. All permits are issued in accordance with Section 28-117 of the Industrial Pretreatment Ordinance. Once a permit is issued, the Industrial Pretreatment Program's compliance monitoring and self-monitoring begins.

The permit will contain the following information (see Attachment H for a sample permit):

- ◆ Permit expiration date (not to exceed five years from date of issue)
- ◆ Definitions of Terms
- ◆ Prohibitions
- ◆ Power and Authority of Enforcing Agent
- ◆ Penalties
- ◆ Sampling
- ◆ Monitoring Requirements
- ◆ Effluent Limits
- ◆ Reporting Requirements
- ◆ Standard Permit Requirements
- ◆ Specific Permit Requirements
- ◆ Pollution Prevention Conditions

The conditions of each permit will be based on the information supplied by the industry on its permit application, the information in the baseline monitoring report for categorical industries, and any additional information obtained during the site visit.

Permits for categorical users will reflect federal regulations established for the particular categories. If an industry is subject to Categorical Standard and a local limit for the same pollutant, the more stringent of the two limits will govern.

Regardless of an industry's classification, its permit will expire after 5 years. At least 90 days prior to expiration of a permit, the permittee will be required to file a permit renewal application.

In some cases, there may be an Industrial User who is not considered a Significant Industrial User, but who does discharge wastewaters containing a pollutant of concern. On a case by case basis, these IUs may be requested to implement industry standard best management practices (BMPs) (e.g., the use of silver recovery cells for photo developing operations) to help reduce potential pollutant load to the POTW.

SECTION 4 COMPLIANCE MONITORING PROCEDURES

Each Permitted Significant Industrial User (SIU) will have a designated master file containing all information exchanged for the life of the Wastewater Discharge Permit. This file will be subdivided as follows:

Wastewater Discharge Survey/Permit Application and Permit
Correspondence to Industry
Correspondence from Industry
General Information
Inspections
Notices of Violations
Self-Monitoring and Compliance Reports, Laboratory Analysis, and Chain of Custody
Discharge Records (as required)

The Control Authority will conduct a Compliance Monitoring Program, including industry inspections, to determine if industrial users are in compliance with their permits. Demand sampling will also be performed in some instances. The Pretreatment Coordinator's compliance monitoring activities are designed to detect and document pretreatment violations in a manner that will ensure that the results are admissible and legally defensible as evidence in judicial proceedings. Compliance data is collected in three ways:

- ◆ Annual inspections conducted by the Pretreatment Coordinator
- ◆ Self-monitoring at least semi-annually (or more frequently as specified in the SIU's Wastewater Discharge Permit) by the SIUs with results reported to the Pretreatment Coordinator
- ◆ Sampling conducted by the Pretreatment Coordinator.

A. Inspections

The Pretreatment Coordinator will conduct inspections of the SIUs at least annually. The Pretreatment Coordinator will annually develop an Inspection Schedule. The Pretreatment Coordinator will also develop a schedule reflecting due dates for the various reports that SIUs must submit throughout the year. Inspections may be scheduled or unscheduled. Additional inspections may occur as necessary. Users suspected of violating their permit or causing operating upsets or disruption of services will be subject to additional inspections. The results of the inspections, including any recommendations or noted deficiencies, are documented on the City of Bryan's 'Industrial Pretreatment Field Investigation & Inspection Report' form, and a copy is issued to the industry.

The following information will be collected during an inspection, if not already on file:

- ◆ Facility name, site address, and correspondence address;
- ◆ Facility contact name, title, and telephone number;
- ◆ General background information about the facility to include: applicable Standard Industrial Classification (SIC) or North American Industrial Classification System (NAICS) codes, number of shifts used, number of employees per shift, etc.;

- ◆ A schematic drawing of the water flow through the facility and the location of all wastewater discharge lines that flow to the wastewater collection system; the schematic should also include the layout of major plant features;
- ◆ A description of each discharge (including any batch discharges), the amount, chemical nature, frequency, and destination of each;
- ◆ A description and process flow diagram of each major product line and process employed within the plant, particularly processes which may be subject to Federal Categorical Pretreatment Standards;
- ◆ A detailed description and appropriate sketches of existing pretreatment facilities, including operating data, if available;
- ◆ A list of pollutants of interest at the facility that come into direct contact with the water that is discharged to the sanitary sewer and pollutants that do not come into direct contact, but have the potential to enter the wastewater due to spills, machinery malfunctions, etc.;
- ◆ Identification of appropriate sampling locations;
- ◆ Sampling results performed by the facility;
- ◆ Proximity of chemical storage to floor drains and whether floor drains discharge to storm or sanitary sewers;
- ◆ A description of spill control practices the facility uses. Information should be included about past spills, unusual discharges, or temporary problems with any of the process units that may affect the wastewater discharge;
- ◆ A description of air pollution control equipment that may generate a wastestream, pollutants that are likely to be found in that wastestream, the discharge or disposal method, and the location of such equipment;
- ◆ A description of how waste residuals (solids) are handled, stored, and/or disposed of;
- ◆ A description of proposed or recent changes to the facility's processes that would affect the discharge characteristics or sampling locations;
- ◆ A description of any operational problems or shut-downs of pretreatment facilities;
- ◆ An evaluation of whether a IU needs a plan to control slug discharges.
- ◆ An evaluation of whether the IU needs a Toxic Organics Management Control Plan (TOMP), whether it has been approved by the city in writing, and an assessment of the IU's compliance with it.
- ◆ Other information, as deemed necessary.

Some users will be subject to more frequent inspections, dependent upon one or more of the following:

- ◆ The results of their initial inspection;
- ◆ Results of industry self-monitoring reports;
- ◆ Wastewater volume and composition.
- ◆ Any industry believed to be in non-compliance.

1. Entry Procedures

The Pretreatment Coordinator and any other authorized representative of the City, State, or Federal government hereinafter referred to as the authorized inspector, should be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept to assure compliance with pretreatment standards. This authority shall be at least as extensive as the authority provided under Section 308 of the Clean Water Act as required by 40 CFR 403.8(f)(1)(v).

When entering an industrial facility, the authorized inspector should identify him/herself and present credentials whether or not identification was required. Industrial officials may choose to call the City or State for verification if they so desire. Under no circumstances should the inspector's credentials leave his/her sight.

An interview should then be conducted with the industry's representative (plant manager, environmental manager or equivalent authority). The authorized inspector should explain the purpose of the inspection. Consent to inspect and sample on the premises must be given by the industry's official for the inspection unless a warrant has been obtained.

Denial of Entry

If the authorized inspector is refused entry into a facility, he/she shall withdraw from the premises and contact his/her supervisor and the City Attorney to discuss the possibility of obtaining a warrant. In the event that the inspector is asked to leave after the inspection has begun, he/she should do so and follow the same procedures as denial of entry.

The authorized inspector should also note all observations pertaining to the denial of entry, such as facility name and address, name and title of person approached, date, time and reason for denial of entry as soon as possible. Under no circumstances should the authorized inspector discuss penalties or make any coercive threats to gain entrance to the facility. If there is a threatening confrontation, the inspector should report it to his/her supervisor.

Anyone accompanying the authorized inspector for the inspection should also obtain entry permission. The authorized inspector should not sign any type of waiver or visitor release that would relieve the industrial facility of responsibility for injury or which would limit the right of the City to use data obtained from the industry.

Search Warrant

If the authorized inspector has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of the ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit order issued hereunder, or to protect the overall public health, safety and welfare of the community, the authorized inspector may seek issuance of a search warrant from the City's municipal court.

B. Sampling

To preserve the integrity of samples for potential use in Enforcement Action, a 'Chain-of-Custody' form (see Attachment K) will be used in all cases of sampling. All samples will be collected and analyzed to conform with 40 CFR 136 methods so that the data obtained is adequate for use in judicial proceedings should that become necessary. Upon collection of a sample in the field, a label will be immediately affixed to the sample container. This label will contain pertinent identifying information. If the sample container and the chain-of-custody become separated, the information contained on the label will allow the sample and chain-of-custody to be matched. Upon delivery of the sample to the laboratory, the individual relinquishing the sample will sign the chain-of-custody, as well as provide the date and time of sample delivery. The individual receiving the sample will also sign and provide a date and time.

1. Self-Monitoring and Reporting

Self-monitoring requirements for each SIU are outlined in their respective discharge permits when issued. The frequency for industry self-monitoring will be based upon the potential impact of the industrial user on the POTW collection and treatment processes, sludge quality, and receiving waters. With certain exceptions, all samples taken by the users must be proportioned composite samples. Exceptions include but are not limited to: batch discharges, pH, Oil & Grease, phenols, and cyanide. These samples shall be collected as grabs. All samples shall be collected, preserved, transported, and analyzed with methods prescribed in 40 CFR, Part 136. All analytical laboratory data is to be submitted to the Industrial Pretreatment Staff, using the 'Industrial User Laboratory Report' (see Attachment L) and the 'Chain-of-Custody' form, by the designated deadline and at the frequency outlined in the specific permit. This data is also submitted via the City of Bryan's 'Industrial User Self-Monitoring Report' form (see Attachment M) and the 'Industrial User Compliance Report' (see Attachment N) both of which are signed by the industry's designated signatory. The self-monitoring report form includes values from collected samples of each of the regulated constituents for that industry. Upon receipt, this form will be date stamped by the Pretreatment Coordinator, all data will be reviewed and after resolution of any issues, it will be maintained in the industry's file.

Industrial users shall notify the City immediately of any discharge that could pose a health or safety threat or cause problems to one of the City of Bryan's Wastewater Treatment Plants and/or Collection System, including any slug loading, as defined in 40 CFR, Part 403.5(b).

Industrial users shall promptly notify the City in advance of any substantial change in the volume or character of pollutants in their discharges.

If sampling indicates a violation of any discharge limit, permittees must report the violation to the City within 24 hours of knowledge of the violation. Permittees must also repeat the sampling and report the results to the Pretreatment Coordinator again within 30 days.

Within five business days of becoming aware of a discharge violation, permittees shall submit to the City a detailed written report specifying the following:

- ◆ The location of the discharge, the type, concentration, and volume of waste in it;
- ◆ The cause of the violation;
- ◆ The duration of the violation or status;
- ◆ When it will cease;
- ◆ All steps taken to insure that a similar violation will not occur in the future

All SIUs shall submit Self-Monitoring and Compliance Reports in a timely manner. The items to be covered by these reports are as follow:

Self-Monitoring Report

- ◆ SIU identification: name, address, etc.;
- ◆ Date sample was collected;
- ◆ Pollutant concentrations in mg/L or ug/L;
- ◆ Average and Maximum Daily Flow;
- ◆ Name of Laboratory conducting analysis;
- ◆ Name of person(s) who collected sample;
- ◆ Certification statement;
- ◆ Signature and title of authorized representative.

Compliance Report

- ◆ Permitted IU identification: permit number and name;
- ◆ Sampling dates;
- ◆ Type of monitoring event: self-monitoring, compliance monitoring, consent order, etc.;
- ◆ Status of Compliance;
- ◆ Description of permit violation;
- ◆ Date of re-sampling;

- ◆ Twenty-four hour Controlling Authority notification information;
- ◆ Five day written report submittal information;
- ◆ Certification statement;
- ◆ Signature and title of authorized representative.

When the Self-Monitoring and Compliance Reports are filed with the Pretreatment Coordinator, they will be checked against the Pretreatment Coordinator's own monitoring results for the same period when available. If discrepancies between the self-monitoring results and the Pretreatment Coordinator's results are found, they will be investigated. If results cannot be reconciled, the Pretreatment Coordinator's results will prevail. The results from the Self-Monitoring Report will also be checked against the discharge limitations established in the industry's discharge permit and in City Rules and Regulations. If the industry is in violation of its permit or the City Rules and Regulation, it will be subject to Enforcement Actions as outlined in the Enforcement Response Plan (Section 5).

2. Industrial Pretreatment Sampling

(a) *Scheduled Sampling*

SIUs will be sampled in accordance with a predetermined schedule that will be developed each year for a 12-month period. The time of sampling will not be announced to the industries. The minimum sampling frequency by the City for SIUs with a good compliance history will be once per year. New SIUs will be sampled more frequently until a history of compliance is developed. If an industry has a record of non-compliance, or if for some reason it is suspected to be in non-compliance, more frequent sampling may be performed.

Sampling of the industrial wastes shall be accomplished by the use of manual methods or mechanical equipment, to obtain required samples which would be representative of the total effluent. Samples will be taken at such intervals as to establish the BOD and Suspended Solids of the industrial waste, as determined by the Pretreatment Coordinator as necessary to maintain control over the discharges from the Permittee. Additionally, such samples as are deemed necessary by the Pretreatment Coordinator shall be taken at such intervals as to establish the concentration of prohibited discharges and pretreatment standards as specified in their permit. The Permittee shall take samples at the same location as the Controlling Authority. The methods used in the examination of all industrial wastes to determine BOD and Suspended Solids and prohibited wastes shall be as defined in 40 CFR, Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain analytical techniques for a pollutant in question, analysis must be performed in accordance with procedures approved by EPA or TCEQ, as appropriate.

If analyses show an industry to be in violation, the enforcement procedures described in the Enforcement Response Plan will be followed.

(b) Demand Sampling

“Demand Sampling” may be necessary to respond to a known or suspected violation discovered in a self-monitoring report, routine sampling, or public complaint. Demand sampling will be conducted as required to locate the source of unknown discharges that have caused an upset or other disruption of system operation. A user will also be subject to demand sampling if suspected of discharging in violation of the City Rules and Regulations. All industrial users, both permitted and non-permitted, are subject to demand sampling. In general, procedures for determining the origin of a prohibited discharge are:

- ◆ Sample at a series of manholes to isolate the source of the pollutants in progressively smaller areas.
- ◆ Identify the excessive pollutant and determine the industry that could be discharging the pollutant in question.
- ◆ Conduct follow-up sampling at the suspected industry.

C. Screening/Tracking Compliance/Due Dates

Once collected, all compliance data must be systematically analyzed for any violations, including those of a non-discharge nature. The Pretreatment Coordinator is responsible for annotating and initially screening all data and identifying all pretreatment violations. Particular attention shall be given to reporting due dates, comparison of numerical values of analysis, and any discharges outside of the standards applicable to the SIUs specific categorical and/or local limits. This will result in the determination of the over-all compliance status of each Industrial User. Violations will be identified, tracked, and addressed by authorized employees of the City. Each time a submission is received from a User, a ‘Compliance Tracking Sheet’ (see Attachment O) will be filled out by the Pretreatment Coordinator to document pertinent data. This sheet will also be annotated with information pertinent to tracking an Enforcement Action. These Compliance Tracking Sheets should be used to track all submissions from users such as:

- Self-monitoring reports
- 30-day noncompliance follow up reports
- Notification of potential problems
- BMRs/90-day compliance reports
- Compliance schedules for meeting categorical pretreatment standards
- Periodic reports on continued compliance with categorical pretreatment standards
- Notification of a changed discharge
- Notification of discharge of a hazardous waste
- Renewal applications
- Response to enforcement actions

Timely and accurate completion of this form will allow the Pretreatment Coordinator to assess the compliance of each industrial user as well as determine if any reports/submittals are due for each permitted industry.

Data shall be reviewed in the order in which it is submitted. All violations will be identified and documented within five business days of receiving compliance information. Initial enforcement responses (contacting the facility on corrective/preventative actions) will occur within 15 days of violation detection.

The Enforcement Response Plan in Section 5 and the Enforcement Response Guide (Attachment A) shall be consulted for appropriate Enforcement Action for any violations. Enforcement actions will be selected and enacted at the earliest time possible. Enforcement Actions will be enacted at the lowest level possible. This includes violations discovered during Pretreatment Coordinator conducted sampling and inspections. In the event that the Industrial User does not comply with the enforcement action applied within 30 days of receiving it, enforcement will be escalated to the next level of severity. All Enforcement Actions shall be submitted in writing via certified mail and will specifically outline all compliance dates and/or corrective actions needed.

Industrial Users who are issued Compliance Schedules as part of an Enforcement Action will also be required to submit periodic Compliance Schedule Progress Reports (see Attachment O). Should these reports or the Self-Monitoring Report show that the industry is not meeting its Compliance Schedule, further enforcement actions will be taken.

SECTION 5 ENFORCEMENT RESPONSE PLAN

A. Response Criteria

The specific enforcement response action selected for use must be appropriate to the violation. The following criteria shall be considered when determining an enforcement response:

- 1. Magnitude of the Violation** - Incidents of significant noncompliance as defined in the General Pretreatment Regulations shall receive an enforcement order that requires a return to compliance by a specified deadline.
- 2. Duration of the Violation** - Enforcement response actions shall serve to prevent recurring and/or extended periods of noncompliance (regardless of severity).
- 3. Effect of Violation on the Receiving Water** - Any violation resulting in degradation of the waters of the state shall be viewed as serious and thus shall be dealt with stringently. Water quality degradation shall be presumed whenever an Industrial User discharges a pollutant into the sewer system that:
 - (a) passes through the wastewater treatment works;
 - (b) causes a violation of the City's Wastewater Discharge Permit(s), including violations of water quality standards, or
 - (c) has a toxic effect on the receiving stream.

In such cases, enforcement response actions may include an Administrative Order and a fine. Any fines or penalties incurred by the City as a result of such an incident shall be recovered from the non-compliant Industrial User via the response action. Termination of city services to the non-compliant Industrial User may be included in such actions.

- 4. Effect of the Violation on the Wastewater Collection and Treatment System** - Incidents resulting in (1) significant increases in treatment costs, (2) interference with or harm to personnel, equipment, processes, or operations, or (3) sludge contamination that increases disposal costs, shall subject the violating Industrial User to an Administrative Fine or Civil Penalty, making them responsible for all costs/expenses necessary to repair the POTW or recover increased costs.
- 5. Compliance History of the Industrial User** - Recurring compliance issues of any nature shall result in significant administrative measures in accordance to the attached ERG to ensure compliance consistency.
- 6. Good Faith of the Industrial User** - An Industrial User's demonstrated willingness to comply may predispose the Control Authority to select less stringent enforcement response actions. However, good faith efforts will not eliminate the necessity of enforcement actions. Good faith shall be defined as actions taken by the Industrial User which demonstrates their intention to remedy non-compliance in a timely fashion and to fulfill any monetary responsibility.

B. Enforcement Response Actions

Following the identification of the pretreatment violation, including the determination of its significance in accordance with the Code of Federal Regulations, Title 40, Protection of the Environment, and the City Ordinances, the most appropriate enforcement response will be selected and applied. This response will be proportional to the violation's severity and, by design, will promote compliance in a timely manner, as authorized under the Texas Water Code Chapter 26 Subchapter E and the City of Bryan's Industrial Pretreatment Ordinance. Potential enforcement actions may include:

- 1. Informal Notice to IU** - This may consist of a telephone call or "reminder letter" to an appropriate IU official to notify them of a minor violation and to seek an explanation. Such informal notice may be used to correct minor instances of noncompliance.
- 2. Informal Meetings** - Used to obtain an IU's commitment to comply with their pretreatment obligations or to inform the IU of stronger enforcement mechanism available for unresolved and/or continued noncompliance.
- 3. Notice of Violation (NOV)** - An official written notification from the Pretreatment Coordinator to the Industrial User outlining areas of non-compliance. This type of notification will be used for both non-significant and significant uses which are in violation and is generally in conjunction with additional actions.
- 4. Administrative Orders (AO)** - Enforcement documents which direct the Industrial User to undertake or to cease specific activities; the terms of which may or may not be negotiated; generally used as the first formal response in cases of non-compliance and may incorporate compliance schedules, administrative penalties and may also include termination of services.

The Pretreatment Staff will utilize four types of Administrative Orders. They are as listed below:

- (a) Consent Orders (CnO)** - A legal agreement between the City of Bryan and the non-compliant Industrial User, which outlines compliance, schedules, remedial actions necessary, and/or stipulates fines. This agreement is judicially enforceable.
- (b) Show Cause Orders (SCO)** - An order which directs the Industrial User to appear before the Control Authority to explain its noncompliance and show cause why more severe enforcement actions against the Industrial User should not be levied; typically used after informal contacts or NOV's have failed to resolve noncompliance; can be used at any time.
- (c) Compliance Order (CpO)** - An order issued by the Pretreatment Staff to the user in violation which directs the user to achieve compliance within a specified amount of time, without which, services will be discontinued to the industry. Terms of such an order need not be discussed with the industry in advance and will not preclude other enforcement action.

- (d) ***Cease and Desist Order (CDO)*** - An order issued by the Control Authority requiring a non-compliant industry to immediately cease all discharge activity outside of the parameters of its permit or other standing Orders or to terminate all sewer discharge privileges.
- 5. **Administrative Fines (AF)** - Any monetary penalties assessed by the Pretreatment Staff for violations of the pretreatment program standards and requirements. These penalties may be imposed and assessed without the requirement of court intervention and are strictly punitive in nature. Such fines shall be a minimum of \$200.00 per violation per day. The fine will escalate by \$200.00 for each continued violation. Administrative fines shall be assessed through a Notice of Violation (NOV) or an Administrative Order (AO).
- 6. **Civil Litigation (CL)** - The formal process of filing a lawsuit against Industrial User to secure court ordered action for the correction of violations and to secure penalties for violations including the recovery of all related costs of corrective or restorative actions required of the City for non-compliance. This course of action is only pursued when the corrective measures are complex, when the penalty to be assessed exceeds the maximum administrative fine, or when the Industrial User is considered recalcitrant and unwilling to fulfill their responsibility of the justification for the named offense(s).

The Pretreatment Staff and the City Attorney will generally use three types of Civil Litigation:

- (a) ***Consent Decree (CD)*** - An agreement established between the Control Authority and the Industrial User following the filing of a lawsuit which is endorsed by the judge assigned to the case.
 - (b) ***Injunction (I)*** - Court Order directing the parties involved to take specific actions to refrain from specific actions. Such an order is allowed when delays in legalities may result in irreparable harm.
 - (c) ***Civil Penalties/Cost Recover (CP/CR)*** - Reimbursement to the City of all expenses incurred as they relate to a non-compliant industry. This may include restoration of the treatment plant, payment of medical treatment of all injuries to employees as related to the violation, and/or indemnification of the City for all fines assessed against it for resulting violations without limitation. Civil penalties shall be a minimum of \$1000.00 but shall not exceed \$2000.00 per violation per day.
- 7. **Criminal Prosecution (CP)** - The formal process of charging individual(s) and/or an Industry with violations of ordinances or permits that are punishable (upon conviction) by penalties and/or imprisonment. The purpose of criminal prosecution is to punish non-compliance via court proceedings and to deter future non-compliance. This measure will be utilized when the Control Authority has evidence of non-compliance accompanied with criminal intent. Criminal penalties shall be a minimum of \$1000.00 but shall not exceed \$2000.00 per violation per day.

- 8. Authority to Disconnect Services** - The Division Manager's right of revocation of water and wastewater disposal services to an Industrial User via a physical severance at the system connection may occur under the authority of an Administrative Order or a court ruling. The Control Authority must provide prior notice to the Industrial User in a fashion timely enough to avoid backflows, spills, or other harm to the treatment facility and its employees. This action may be implemented as an appropriate response to an Industrial User that has not adequately responded to previous enforcement actions.

9. Supplemental Actions

- (a) **Public Notice** - In accordance with the laws in 40 CFR 403, the City of Bryan must annually publish in the largest daily newspaper, a list of all Industrial Users which have, in large measure, violated applicable pretreatment standard requirements during the preceding calendar year.

For this purpose, an industrial user will be considered in significant non-compliance if their violation meets one or more of the following criteria:

- ◆ Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- ◆ Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).
- ◆ Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the City of Bryan determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of plant or collection system personnel or the general public).
- ◆ Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the City of Bryan's exercise of its emergency authority to halt or prevent such a discharge.
- ◆ Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- ◆ Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- ◆ Failure to accurately report noncompliance.

- ◆ Any other violation or group of violations that the City of Bryan determines could adversely affect any of the wastewater treatment plants or collection system.

The information contained in the publication will, at a minimum, be the following:

- ◆ Industry name
- ◆ Nature of the violation(s)
- ◆ Actions taken by the violator to correct violation(s)
- ◆ Compliance schedule
- ◆ Penalties assessed

The Pretreatment Coordinator will be responsible for gathering all the necessary information to assess if a user is in significant noncompliance (SNC). SNC will be calculated each quarter, using data from self-monitoring and POTW compliance monitoring for the previous six months.

- (b) *Increased Monitoring and Reporting*** - When there is a demonstrated history of non-compliance, the Pretreatment Coordinator may require increased surveillance of an Industrial User via additional self-monitoring and reporting or any other means deemed appropriate to insure continued compliance.

C. Enforcement Response Guide

The Control Authority's Enforcement Response Guide matrix (see Attachment A) designates several alternative enforcement options for each typical instances of non-compliance. Once a violation is identified, an appropriate enforcement action shall be selected from the enforcement options as dictated by the matrix. The Pretreatment Coordinator shall undertake careful evaluation of each of the following factors before the selection of an enforcement action is chosen:

- ◆ Good faith of the Industrial User
- ◆ Compliance history of the Industrial User
- ◆ Previous response to enforcement actions against Industrial User
- ◆ Violations effect on the receiving waters
- ◆ Violations effect on the POTW and/or employees

The Enforcement Response Guide matrix identifies types of violations, indicates initial and follow-up responses, and designates responsible personnel authorized to administer each of these responses. The guide is used as follows:

- (1) Locate the type of noncompliance in the first column and identify the most accurate description of the violation.

- (2) Assess the appropriateness of the recommended response(s) in column two. Note that the numbered responses are to be used in order of increasing severity for repeat offenders. Items within each number can be chosen based on the parameters established at the beginning of this subsection. First offenders or demonstrating good faith efforts may merit a more lenient response. Similarly, repeat offenders or those demonstrating negligence may require a more stringent response.
- (3) Apply an applicable enforcement response from column three of the attached table to the Industrial User. Specify corrective action or other responses required of the Industrial User, if any. Column four indicates personnel responsibility for administering each response. The more severe penalties will necessitate the involvement of higher authorities.
- (4) Follow-up with escalated enforcement action, as appropriate. For tracking purposes, note all enforcement actions and user responses in the Compliance Tracking Sheet for that user.